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10 UNITED STATES BANKRUPTCY COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 In re ) Bk. No. 10-60823  
13 NELSON VILLIANUEVA REYES AKA )  
14 NELSON V. REYES, NELSON REYES AND ) CHAPTER 13  
15 CLAIRE DE LA CRUZ REYES AKA CLAIRE )  
16 D. REYES, ) R.S. No. LSR - 70  
17 )  
18 ) DECLARATION IN SUPPORT OF  
19 ) MOTION FOR RELIEF FROM  
20 ) AUTOMATIC STAY  
21 )  
22 ) Hearing-  
23 ) Date : August 30, 2011  
24 ) Time : 10:00 AM  
25 ) Place : U.S. Bankruptcy Court  
26 ) 280 South First Street  
27 ) San Jose, California  
28 ) Courtroom 3099

29  
30 I, Jennifer Ward, declare and state:

31 1. As to the following facts, I know them to be true of my own personal  
32 knowledge and if called upon to testify in this action, I could and would testify competently to  
33 the following facts personally known to me to be true.

34 2. I am an employee and a custodian of records of American Home Mortgage  
35 Servicing, Inc., servicing agent on behalf of Deutsche Bank National Trust Company, as Trustee  
36 for HarborView Mortgage Loan Trust, Mortgage Loan Pass-Through Certificates, Series 2006-7,

1 which is the moving party herein ("Lender"). I am familiar with this case and the facts herein  
2 and am authorized to make these statements on behalf of Lender. I have reviewed the loan  
3 service records of American Home Mortgage Servicing, Inc. before making these statements.  
4 The loan service records are kept within the normal course of business by American Home  
5 Mortgage Servicing, Inc., at or near the time of the event, which is noted or memorialized. As to  
6 any statements re: equity or lack of equity contained within this Declaration, which are made  
7 upon information and belief, these statements are made after examination of the loan file and  
8 after consideration of the following factors:

9  
10 1) The loan to value ratio; and

11 2) Amount of arrearages

12 2. Nelson Villanueva Reyes and Claire De La Cruz Reyes ("Debtors") are  
13 individuals and the Chapter 13 Debtors herein.

14 3. Devin Derham-Burk has been appointed as the Chapter 13 Trustee in the  
15 instant bankruptcy. By virtue of her position as Chapter 13 Trustee, Devin Derham-Burk may  
16 hold title to the subject property in that capacity. To the extent that relief sought herein is  
17 granted, Devin Derham-Burk should be bound by any such judgment.

18 4. On October 18, 2010, Debtors filed a Petition under Chapter 13 of the  
19 Bankruptcy Code.

20 5. Lender is the current payee and a holder in due course, of a promissory note  
21 (which is a negotiable instrument) dated May 1, 2006 in the principal amount of \$507,000.00  
22 (the "Note") secured by a first deed of trust of same date, which bears interest as specified  
23 therein. The original Note is held by Lender and a copy is attached hereto as **Exhibit "A"** and is  
24 incorporated herein by reference.

25 6. The indebtedness evidenced by the Note is secured by a Deed of Trust (the  
26 "Deed of Trust") executed and recorded in Santa Clara County and which encumbers the real  
27

1 property located at **46 Sierra Vista Place, San Jose, California** (the "Property"). A copy of the  
2 Deed of Trust is attached hereto as **Exhibit "B"** and incorporated herein by reference.  
3

4 7. Debtors defaulted on the Note and there is now due and owing to Lender:

5 Unpaid Principal Balance: \$620,343.66

6 Pre-Petition Arrearages:

7 Pre-Petition Arrears per Order on Objection to Claim  
8 dated April 8, 2011 \$ 2,796.00

9 Post-Petition Arrearages:

10 Monthly Payments from May 1, 2011 through  
11 July 1, 2011 at \$2,671.35 \$ 8,014.05

12 Late Charges at \$101.26 \$ 303.78

13 Less Debtor Suspense \$ -2,566.94

14 Attorneys' Fees \$ 800.00

15 Subtotal Post-Petition Delinquencies \$ 6,550.89

16 Subtotal Pre-Petition and Post-Petition Delinquencies \$ 9,346.89

17 GRAND TOTAL \$629,690.55

18 (Please note that an additional \$2,671.35 becomes due and owing on the 1<sup>st</sup> day of each month,  
19 as well as an additional late charge 15 days thereafter.)

20 8. The total amount now owed to Lender on Loan No. XXXX0166 is  
21 \$629,690.55 as of July 16, 2011.

22 9. Interest continues to accrue as set forth in the Note.

23 10. Lender has performed each and every act required by the terms of the Deed of  
24 Trust.

25 11. A post-petition payment history is attached hereto as **Exhibit "C"** and made a  
26 part hereof.

27 12. Lender requests authority to complete foreclosure proceedings relative to the  
28 Property, but is prevented from doing so by the filing of Debtors' Petition which operates as an

1 Automatic Stay, prohibiting Lender from taking any action or commencing any Court  
2 proceeding to enforce a lien upon the Debtors' real Property. Lender filed its Notice of Default  
3 on January 22, 2010.

4 13. The commercially reasonable value of the Property is approximately  
5 \$338,500.00, as evidenced by the Debtor's Schedules A and D , attached hereto as **Exhibit "D"**  
6 and made a part hereof.

7 14. The Note and Deed of Trust provide that Lender shall be entitled to recover  
8 from the Debtors and that the real Property shall secure the payment of all attorneys' fees and  
9 costs incurred by Lender to collect upon the real Property. The Lender may also be entitled to  
10 recover said fees and costs under 11 U.S.C. §506(b). By virtue of the Debtor's default, Lender  
11 has necessarily incurred such fees and costs and will continue to incur such fees and costs.

12 I declare under penalty of perjury under the laws of the United States of America  
13 the foregoing to be true and correct to the best of my knowledge, information and belief.

14 DATED: July 21, 2011

15 By /s/Jennifer Ward  
16 Jennifer Ward  
17 Loan # XXXX0166  
18 A.127-386